

### **Statement from the Department of Defense to NBC News:**

DOD continues to support the longstanding Congressional policy that all military members and their families should be under the same compensation system for personal injuries or death, whether caused by combat, training accident, household accident, natural cause, or other reason.

If the Feres Doctrine were reversed or an exception carved out for medical claims, an injured member or the family of a deceased member would be allowed to sue for certain injuries based on an allegation that some other military member or government employee was negligent. In contrast, military members injured or the families of members killed in combat or other military operations or in a stateside accident would have only the no-fault compensation system, even if the injury or death were due to friendly fire or there were some other issue of negligence by another military member. The combat injury or death would appear to be valued lower than an injury or death where a tort claim would be allowed. Such an inequity toward members injured or killed in military operations or a wide range of other circumstances could not be sustained.

The Military Health System has a comprehensive program of quality assurance which applies equally to all cases of compensation resulting from inadequate medical care, whether in the form of a tort claim award or the no-fault compensation system. (Most patients of military hospitals and clinics -- i.e., dependents and retirees -- can sue the United States for medical malpractice.) In both types of cases, the system provides for disclosure to patients about what happened in their care, including any adverse events. Further, the system requires peer review, including peer review external to DOD, to determine whether the standard of care was met, and accountability for cases in which it was not. This includes reporting to the National Practitioner Data Bank, where information is available to licensing bodies and future employers. The patient safety and clinical quality management system does not depend on whether the patient can sue. Nothing in the experience of DOD (where, as noted above, most patients can sue) or the Department of Veterans Affairs suggests that more malpractice litigation would improve quality. Rather, more malpractice suits would likely bring defensive medicine practices into military health care, compromising every day medical decision making essential to military readiness.